

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

Nicholas D. Yurjevich
Helen L. Yurjevich,
Debtors.

Case No.: 19-20657-JAD

Nationstar Mortgage LLC d/b/a Mr. Cooper,
Movant,

Chapter 7

vs.

Nicholas D. Yurjevich and Helen L. Yurjevich,
Debtors / Respondents,
and
Charles O. Zebley, Jr.,
Trustee / Respondent.

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND
REQUEST FOR WAIVER OF FED. R. BANKR. P. 4001(a)(3) STAY**

NOW COMES, Nationstar Mortgage LLC d/b/a Mr. Cooper (“Movant”), by and through its counsel, Andrew M. Lubin, Esquire, of Milstead & Associates, LLC, and hereby requests an order terminating the automatic stay provisions of section 11 U.S.C. §362 to enable Movant to take any and all action necessary to enforce its rights as determined by the Note (defined below) and Mortgage (defined below), state and/or other applicable law with regard to real property known as and located at 702 First Street, Leechburg, PA 15656, and waiving the 14-day stay provision of Fed. R. Bankr. P. 4001(a)(3), and in support thereof avers as follows:

THE PARTIES

1. Movant, Nationstar Mortgage LLC d/b/a Mr. Cooper, is a secured creditor of the Debtors.

2. Debtors are the owners of real property known as and located at 702 First Street, Leechburg, PA 15656 (“the Property”).

JURISDICTION AND VENUE

3. On or about February 22, 2019, the Debtors filed a petition under chapter 7 of the Bankruptcy Code.

4. This Court has jurisdiction over this case and this motion pursuant to 28 U.S.C. §§ 157 and 1334.

5. Venue of this case and this motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

FACTUAL BACKGROUND

6. Debtors are the owners of the Property.

7. The Debtors has executed and delivered or is otherwise obligated with respect to that certain promissory note in the original principal amount of \$25,600.00 (the “Note”). Movant is an entity entitled to enforce the Note.

8. Pursuant to that certain mortgage, dated October 19, 2007 and recorded in the office of the county clerk of Armstrong County, Pennsylvania (the “Mortgage”), all obligations (collectively, the “Obligations”) of the Debtors under and with respect to the Note and the Mortgage are secured by the Property.

9. Nationstar Mortgage LLC directly or through an agent, has possession of the promissory note and held the note at the time of the filing of the Movant’s Motion for Relief from the Stay. The promissory note has been duly indorsed.

10. Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase order, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements in support of right to seek a lift of the automatic stay and foreclose if necessary.

11. Debtors have failed to make monthly payments due under the Mortgage for the months of January 1, 2019 through February 1, 2019. The total amount due on the Mortgage as

of the date of the instant Motion for Relief from Automatic Stay is \$23,654.74 as set forth in greater detail in Schedule A attached hereto and made part hereof by reference.

12. The value of the property is \$55,000.00 per Debtors' Schedule A/B attached hereto as Exhibit A.

13. Other liens on the property are as follows:

N/A	

14. Per the Debtors' Schedule C, the value of the claimed exemption is \$25,810.00. Debtor's Schedule C is attached hereto as Exhibit A.

BASIS FOR RELIEF REQUESTED

15. Movant requests an order terminating the automatic stay provisions of 11 U.S.C. §362 to enable Movant to take any and all action(s) necessary to enforce its rights as determined by the Note and the Mortgage, State and/or other applicable law with regard to the Property.

16. Section 362(d) permits relief from the automatic stay upon two bases. Section 362 provides that relief may be granted:

- (1) for cause including the lack of adequate protection of an interest in property of such party in interest; *or*
- (2) with respect to a stay of an act against property, if
 - (A) the debtor does not have equity in such property and
 - (B) such property is not necessary to an effective reorganization or plan.

17. Notably, section 362(d) is written in the disjunctive rather than the conjunctive so that either basis along is a sufficient basis for relief. *See, Nazareth National Bank v. Trina-Dee, Inc.* 731 F.2d 170, 170 (3rd Cir. 1984) (explaining that "either ground along is sufficient to justify relief from the stay"). Movant has cause to have the automatic stay modified as to permit Movant

to take any and all action(s) necessary to enforce its rights as determined by State and/or other applicable law with regard to the Property.

18. Movant has cause to have relief from the automatic stay effective immediately and such relief should not be subject to the fourteen day period of Bankruptcy Rule 4001(a)(3) as Movant will incur substantial additional costs and expenses by the imposition of said fourteen day period.

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the automatic stay and granting the following:

1. Relief from the automatic stay for all purposes allowed by the Note, the Mortgage, and applicable law with respect to Movant, its successors or assigns, and the Property;
2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code;
3. That the 14-day stay described by Bankruptcy Rule 4001(a)(3) be waived; and
4. For such other relief as the Court deems proper.

Movant further requests that upon entry of an order granting relief from the automatic stay, it be exempted from further compliance with Fed. R. Bankr. P. 3002.1 in the instant bankruptcy case.

Respectfully submitted,
MILSTEAD & ASSOCIATES, LLC

DATED: March 25, 2019

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